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Attorneys for Defendants

**THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH**

JENNIFER MOORE,

Plaintiff,

v.

**JOHN C. HEATH, ATTORNEY AT LAW,
PLLC d/b/a LEXINGTON LAW FIRM, et
al.,**

Defendants.

Case No. 2:21-CV-00027-TC

**DEFENDANTS' OBJECTION TO
[PROPOSED] ORDER ON PLAINTIFF'S
MOTION FOR EXTENSION OF
DISCOVERY AND CLASS
CERTIFICATION DEADLINES**

Magistrate Judge Cecilia Romero

Defendants hereby object under DUCivR 54-1(b) to Plaintiff's proposed order submitted to the Court on February 28, 2022. Specifically, Defendants object to that proposed order's provision for the close of all fact discovery on March 30, 2022, without allowance for any discovery following Plaintiff's filing of her Motion for Class Certification. Instead, Defendants submit that its proposed Order should be entered, which proposed Order was also attached to the February 28, 2022 1:22 pm email to the Court from Plaintiff's counsel.

The original scheduling order [ECF No. 26] and the agreed-to extension of that order entered in November [ECF No. 48] each contemplated a close of fact discovery fourteen (14) days after the class certification deadline. After Plaintiff moved for an extension of those deadlines, Defendants notified Plaintiff that they intended to depose Plaintiff after the filing of the class certification motion, to allow the opportunity to review Plaintiff's motion before conducting the deposition. **Exhibit A.**

Defendants should not be deprived of the opportunity to review Plaintiff's motion for class certification prior to the deposition simply because the Court has allowed an extension of time to file that motion.

Respectfully, this Court's ruling did not contemplate a close of all discovery on the same date as the class certification deadline—a departure from the previous timeline that had remained consistent through all previous scheduling orders put in place by the assigned district judge. Instead, the Court stated that the discovery deadlines would be extended by 30 days, and after Defendants' counsel requested clarification, the Court stated that the deposition of eFolks must occur by March 11 and that Plaintiff must file her Motion for Class Certification by March 30. Nor did Plaintiff request such relief, as even the schedule proposed by Plaintiff in her Motion would have closed discovery after the deadline to move for class certification.

The Court based its ruling, in part, upon a finding that doing so would not result in substantial prejudice to Defendants. Yet, if the Court alters the discovery timeline in the manner contemplated by Plaintiff's proposed order, Defendant will be prejudiced by losing the previously afforded opportunity to review Plaintiff's motion for class certification prior to conducting her deposition.

Accordingly, Defendants request that this Court instead enter Defendant's alternative proposed order, attached as **Exhibit B**, which provides for a close of fact discovery on April 15, 2022. This maintains consistency with the prior scheduling orders by allowing additional discovery for an approximately two-week period after Plaintiff files her motion for class certification on March 30, 2022.

Defendants respectfully request that their proposed order, attached hereto, be adopted by the Court.

Dated: February 28, 2022.

DENTONS DURHAM JONES PINEGAR

/s/ James D. Gilson

James D. Gilson

Lyndon R. Bradshaw

**TROUTMAN PEPPER HAMILTON SANDERS,
LLP**

Timothy J. St. George

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of February 2022, I electronically filed the foregoing the Clerk of the Court using the CM/ECF System which will then send a notification of such filing (NEF) to all counsel of record.

/s/ Cathy Frandsen